

THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

Judge: District Hon. William Alsup

NOTICE IS HEREBY GIVEN that on 01/24/2019 at 8.00AM or as soon thereafter as the matter may be heard in Courtroom 12, the 19th Floor of The United States District Court, Northern District of California, located at 450 Golden Gate Avenue, San Francisco, CA, 94102.

1 Plaintiff Tatyana E. Drevaleva will move the Court to allow me to amend my Complaint for
2 Employment Discrimination pursuant to F.R.C.P. Rule 15(a)(2).

3 Said Motion shall be based on this Notice, the attached Motion to Strike Defendants'
4 motion to Dismiss, the attached Memorandum of Points and Authorities, the attached
5 Declaration, the pleadings and papers on file, and on such additional matters as may be presented
6 to the Court prior to or at the hearing.

7 Dated: December 18, 2018

8 Signed: Tatyana Drevaleva 

9
10 On December 03, 2018, Hon. Judge William Alsup dismissed my Complaint for
11 Employment Discrimination and offered me to file a Motion for Leave to Amend my Complaint.
12 The Court's Order was full of legal mistakes and omissions of factual findings. The Plaintiff
13 filed a Motion for Leave to File a Motion for Reconsideration and three Applications for Court's
14 Leave to Appeal under 28 U.S.C. §1292(b).

15 Plaintiff follows the Court's Order and files the Motion for Leave to File an Amended
16 Complaint. Obviously, the Plaintiff can't change the facts.

17 According to the Civ. Loc. Rule 10-1, the Plaintiff "must reproduce the entire proposed
18 pleading and may not incorporate any part of a prior pleading by reference." Here, I am
19 including the entire proposed new pleading. However, I have no idea how to "not incorporate
20 any part of a prior pleading by reference." I included the same description of the facts that I
21 wrote in my original Complaint.

22 In this First Amended Complaint, I eliminated the Libel cause of action and removed my
23 Constitutional claims. The reason is that I am going to file a claim with the Merit Systems
24 Protection Board to process these claims. Right now, the District Court doesn't have jurisdiction
25 over my Libel and Constitutional claims because they were not processed at the MSPB.

26 I included the IIED claim into my proposed First Amended Complaint. The Opposing
27 Party can argue and prove to the Court that I should eliminate this cause of action. My points of
28 view are:

- 1 1) I can include my IIED claim into my Rehabilitation Act cause of action
- 2 2) Or I can eliminate the IIED cause of action and submit my IIED claim to the MSPB.

3
4 Also, there is uncertainty with my Pregnancy Discrimination cause of action. There is no
5 any provision of law and any case law about Pregnancy Discrimination in Federal employment.
6 Because of that, we have the following difficulties:

- 7 1) Who is the Defendant in the Pregnancy Discrimination cause of action? There is no
8 any regulation that says that the Secretary of the Department of VA shall be named as
9 a Defendant. Therefore, I named both the Department of Veterans Affairs and the
10 Secretary of the Department of the VA as Defendants
- 11 2) Where shall I maintain my Pregnancy Discrimination cause of action – in California
12 or in New Mexico? There is no regulation that says that victims of Pregnancy
13 Discrimination have a right to sue the Federal Government in any State
- 14 3) Can I request the District Court to process my Pregnancy Discrimination cause of
15 action without paying costs to the Court? I have a right to submit this request for my
16 Title VII, the ADEA, and the Rehab. Act causes of action because it is included into
17 the statute. However, there is no statute that allows victims of Pregnancy
18 Discrimination to sue free of charge
- 19 4) Can I request the District Court to assign a free of charge Attorney to represent my
20 Pregnancy Discrimination cause of action? There is no statutory regulation that
21 allows the Courts to assign an Attorney free of charge to the Plaintiff

22
23 Because of all these uncertainties, I am proposing to separate my Pregnancy
24 Discrimination cause of action and process it separately from my Title VII, the ADEA, and the
25 Rehabilitation Act causes of action. There are well established regulations and the case law
26 regarding Title VII, the ADEA, and the Rehab. Act.

1 The Plaintiff is submitting a proposed First Amended Complaint where I listed Pregnancy
2 Discrimination with other causes of action (Title VII, the ADEA, and the Rehab. Act). The
3 Opposing Party can argue and present its point of view to the Court.

4 If the District Court decides that I shall process my Pregnancy Discrimination cause of
5 action separately, I will amend my Complaint the second time.

6 The Attachments 1-19 that I am submitting with this proposed First Amended Complaint
7 are the same with the Attachments that I filed with my original Complaint. I added Attachments
8 20-25.

9 The Plaintiff also intends to notify the Court when I file a claim at the MSPB.

10 The Plaintiff also intends to file a Motion to Stay of the Court's Order incorporating my
11 nondiscrimination Libel, the IIED and Constitutional claims into the discrimination causes of
12 action. The Plaintiff wants the District Court to stay these causes of action until the resolution at
13 the MSPB.

14
15 **Conclusion.**

16 I am submitting a proposed First Amended Complaint, and I am waiting for the
17 opportunity to argue about this issue on a hearing date.

18
19 I declare under the penalty of perjury under the Federal laws and the laws on the State of
20 California that the foregoing is true and correct. Executed at Daly City, CA, on December 18,
21 2018.

22
23 Respectfully submitted,

24 Date: December 18, 2018

25 Sign Name: 

26 Print Name: Tatyana E. Drevaeva
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